

3 FAM 2640

POSITION CLASSIFICATION APPEALS

(CT:PER-511; 12-07-2004)
(Office of Origin: (HR/RMA))

3 FAM 2641 POLICY

(TL:PER-379; 01-11-2000)
(State Only)
(Applies to Civil Service Employees)

Civil Service employees are entitled to appeal the classification of the positions to which they are officially assigned. They may initiate such appeals when they feel that the currently assigned duties and responsibilities of the position occupied are not properly classified.

3 FAM 2642 AUTHORITY

(TL:PER-379; 01-11-2000)
(State Only)
(Applies to Civil Service Employees)

The authority is found under:

- (1) 5 U.S.C. Chapters 51 and 53; and
- (2) 5 CFR Parts 511 and 532, Subpart G.

3 FAM 2643 NON-APPEALABLE ISSUES

(CT:PER-511; 12-07-2004)
(State Only)
(Applies to Civil Service Employees)

The following issues are not appealable:

- (1) *The class, grade, or pay system of a position to which the employee is detailed or promoted on a time-limited basis, except that employees serving under a time-limited promotion for two years or more may appeal the classification of their positions to the Office under these procedures;*
- (2) A proposed classification decision;
- (3) The classification of the employee's position based on position-to-

position comparisons and not standards or guides published by OPM and/or standards or guides issued by the Department;

- (4) The adequacy of the classification criteria contained in an OPM published classification standard or guide and/or standards or guides issued by the Department;
- (5) A classification decision that has been issued and certified by OPM as a result of an appeal, either by the Department or an employee, when there has been no significant change in the governing classification standard(s), guide(s), or major duties of the position; or
- (6) The class, grade, or pay system of a position to which the employee is not officially assigned by an official personnel action.

3 FAM 2644 EMPLOYEE REPRESENTATIVES

(TL:PER-379; 01-11-2000)

(State Only)

(Applies to Civil Service Employees)

An employee may select a representative of his or her choice (designated in writing) to assist in the preparation and presentation of an appeal. The Department may disallow an employee's representative when:

- 1. The individual's activities as a representative would cause a conflict of interest or position;
- 2. An employee who cannot be released from his or her official duties because of the priority needs of the Federal Government; or
- 3. An employee whose release would give rise to unreasonable costs to the Federal Government.

3 FAM 2645 FILING AN APPEAL

(TL:PER-462; 01-28-2003)

(State Only)

(Applies to Civil Service Employees)

- a. Employees are encouraged to use the Department's classification appeal procedures before appealing to OPM.
- b. Federal Wage System Employees are required to use Departmental appeal procedures before appealing to OPM. (See 3 FAM 3163, Appeals.)
- c. Office of Inspector General (OIG) Civil Service employees are excluded from these appeals procedures as provided by the Inspector General Act of 1978. OIG employees should refer to the appropriate OIG directive on

position classification appeal procedures or contact the OIG Office of Administration (OIG/ADM), for information.

3 FAM 2645.1 Department Level

(CT:PER-511; 12-07-2004)

(State Only)

(Applies to Civil Service Employees)

- a. Appeals made at the Department level must be made in writing and addressed to: *Director, Office of Resource Management and Analysis* (HR/RMA), Room H-1301, SA-1, Washington, D C 20037. Appeals made at this level must include:
 - (1) Employee's full name;
 - (2) Organizational location of the position;
 - (3) Requested title, series, and grade;
 - (4) Copy of current position description;
 - (5) Reasons why the position is believed to be incorrectly classified, together with reasons supporting the classification the appellant considers correct; and
 - (6) Any relevant information, or reference to any position classification standards and/or guides, which may impact on the appeal.
- b. On appeals within the Department, HR/RMA will advise the employee, in writing, of its decision within 60 workdays of receipt of the appeal.

3 FAM 2645.2 Office of Personnel Management (OPM)

(CT:PER-511; 12-07-2004)

(State Only)

(Applies to Civil Service Employees)

- a. An employee may file an appeal to OPM, if the Department's decision is unfavorable, advising HR/RMA that action has been taken. Employees should be aware that OPM's options in reviewing an appeal are:
 - (1) To upgrade the position;
 - (2) To downgrade the position; or
 - (3) To leave the position as currently classified.
- b. All appeals must be in writing and should include:
 - (1) The employee's name, mailing address, and commercial office telephone number;

- (2) The present classification of the employee's position and the requested classification;
 - (3) The name of the department or agency and the office in which the employee works;
 - (4) The city where the employee works and the installation's mailing address;
 - (5) A copy of the employee's official position description and either a statement affirming that it is accurate or a detailed explanation of the inaccuracies and an explanation of the efforts made to correct the position description;
 - (6) Any additional information about the position that will aid in understanding it; and
 - (7) Arguments supporting the requested classification by referencing the appropriate classification standards and/or guides.
- c. An OPM decision constitutes a classification certificate issued under the authority of 5 U.S.C. 5112(b). This certificate is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Federal Government.
- d. An employee may appeal the classification of his or her position at any time. It is strongly encouraged that the employee files an appeal promptly to alleviate any uncertainties concerning the classification.
- e. *Office of Personnel Management website.*

3 FAM 2646 EFFECTIVE DATES OF POSITION CLASSIFICATION ACTIONS OR DECISIONS

3 FAM 2646.1 General

(CT:PER-511; 12-07-2004)

(State Only)

(Applies to Civil Service Employees)

- a. A classification action is a determination to establish or change the title, series, grade, or pay system of a position based on application of published position classification standards or guides.
- b. For the Department:
 - (1) The effective date of a position action taken by an agency shall be the date an official with properly delegated authority approves (certifies) the proposed classification; or

- (2) The effective date of a position action may be extended to correspond with the effective date of the personnel action when:
- (a) *The position is being changed to lower grade or pay;*
 - (b) *The employee occupying the position is eligible for retained grade or pay under 5 U.S.C. 5362 - 5363; and*
 - (c) *For the Office of Personnel Management, the effective date of a classification decision, made by means of a certificate issued under the authority of 5110, Title 5, U.S.C., is not earlier than the date of the certificate and not later than the beginning of the fourth pay period following the date of the certificate.*

3 FAM 2646.2 Position Actions

(CT:PER-511; 12-07-2004)

(State Only)

(Applies to Civil Service Employees)

- a. A position action is implemented by a personnel action. The personnel action *must* occur within a reasonable period of time following the date of the position action.
- b. If the position action results in a loss of grade or pay to the employee occupying the position, the Department must notify the employee, in writing, of the position action and the proposed date of the personnel action.

3 FAM 2647 RETROACTIVE EFFECTIVE DATE

(TL:PER-379; 01-11-2000)

(State Only)

(Applies to Civil Service Employees)

- a. A retroactive effective date may be required only if the employee is wrongfully demoted.
- b. The effective date of OPM's classification appellate certificate or the Department's appellate decision can be retroactive only if it corrects a classification action, which resulted in a loss of grade or pay. In order for the decision to be made retroactive, the employee must file the initial request for review with either the Department or to OPM no later than 15 calendar days after the effective date of the reclassification action.
- c. The employee has the right to a retroactive effective date from the Department or OPM not later than 15 calendar days following receipt of written notification of a final agency administrative decision or 15

calendar days after the effective date of the action taken as a result of the classification decision, whichever is later.

- d. Retroactivity may be based only on duties and responsibilities existing at the time of demotion and cannot be based on duties and responsibilities assigned later.

3 FAM 2648 CANCELLATION OF AN EMPLOYEE'S APPEAL

(TL:PER-379; 01-11-2000)

(State Only)

(Applies to Civil Service Employees)

- a. An appeal shall be canceled and the employee notified, in writing, when one of the following occurs:
 - (1) The employee submits a written request to cancel the appeal;
 - (2) The employee is no longer officially assigned to the position under appeal (see OPM Employee Fact Sheet on Position Classification Appeals); or
 - (3) The employee or designated representative does not furnish requested information or proceed with the advancement of the appeal in a reasonable time (e.g., 15 calendar days).
- b. The Department and the Office of Personnel Management, may, at their discretion, reopen a canceled appeal if the employee or designated representative can show circumstances beyond his or her control which prevented the employee from pursuing the appeal.

3 FAM 2649 APPELLATE DECISIONS AND NOTIFICATIONS

3 FAM 2649.1 Decisions

(TL:PER-379; 01-11-2000)

(State Only)

(Applies to Civil Service Employees)

When the classification decision on a classification appeal results in a change, the personnel action must follow the provisions below:

- (1) All position and personnel actions shall be effective no earlier than the date of the appeal decision and no later than the beginning of the fourth pay period following the date of the decision; and

- (2) An appellate decision is final unless reconsidered by the Department or OPM. Reconsideration is entirely at the discretion of the Department or OPM.

3 FAM 2649.2 Notifications

(TL:PER-462; 01-28-2003)

(State Only)

(Applies to Civil Service Employees)

- a. The Department will notify the employee or designated representative, in writing, of its decision.
- b. OPM will notify the employee, designated representative, if applicable and the Agency, in writing, of its decision.